

Dean

BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS
2401 PENNSYLVANIA AVENUE, NW
SUITE 300
WASHINGTON, DC 20037

TELEPHONE: (202) 663-7820
FACSIMILE: (202) 663-7849

DAVID C. REEVES

E1-1687

(202) 663-7824 (Direct Dial)
E-Mail: dreeves@bakerandmiller.com

SEP 26 2005
RECEIVED

September 26, 2005

BY HAND DELIVERY

Surface Transportation Board
Case Control Unit
1925 K Street, NW
Washington DC 20423-0001

Attn: Christa Dean

Re: STB Docket No. AB-103 (Sub-No. 18X)
The Kansas City Southern Railway Company-- Abandonment Exemption
-- Line In Winn Parish, LA

Dear Ms. Dean:

In its Environmental Assessment ("EA") served September 9, 2005 in this matter, the Section of Environmental Analysis ("SEA") preliminarily recommended imposing four environmental conditions on the proposed abandonment. The Kansas City Southern Railway Company ("KCSR") herewith submits its comments addressing the proposed conditions. KCSR believes that the following information satisfies three of the four recommended conditions and that any final decision concerning the abandonment and interim trail use should no longer contain those three conditions.

Condition 1 - Contact with the National Geodetic Survey. On August 3, the NGS notified SEA of the possible presence of 2 geodetic markers on or near the involved line. KCSR investigated, and found that neither of the markers is within the involved right of way, the closer of the two being over 1000 feet away. KCSR advised the NGS that inasmuch as the salvage operations would be conducted within the right of way, the two listed markers would not be affected. A copy of that advice to NGS is attached as Exhibit 1. NGS has not replied to or disputed KCSR's conclusions. Accordingly, KCSR submits that it has consulted with NGS as required by the recommended condition and that the condition can be eliminated from the final environmental recommendations.

BAKER & MILLER PLLC

September 26, 2005

Page 2

Condition 2 - Consultation with the U.S. Army Corps of Engineers' Vicksburg District.

Following issuance of the EA, KCSR received the attached correspondence (Exhibit 2) from the Corps of Engineers' Vicksburg office. It concludes that the abandonment does not affect any Corps project. It further recommends consultation with the U.S. Fish & Wildlife Service concerning potential effects on threatened or endangered species; with the Louisiana State Historic Preservation Office regarding possible impacts on historic sites or structures; and with Ms. Elizabeth Guynes of the Corps' regulatory office concerning the possible need for a Section 404 permit. All three of these recommendations have already been satisfied.

- Through pre-filing consultation letters, the filing of the Environmental Report, and subsequent phone calls and correspondence, KCSR has already sufficiently consulted with the U.S. Fish & Wildlife Service. Those consultations resulted in only one concern being raised: are there potential adverse impacts on red cockaded woodpeckers? KCSR responded to these concerns and as shown in Exhibit 3, further discussion revealed that because salvage operations would be confined to the right-of-way, no effects on red cockaded woodpeckers were expected. There has been no subsequent communication from Fish & Wildlife on this matter.
- Shortly before the Board issued the EA, KCSR received and forwarded to the Board a communication from Louisiana's State Historic Preservation Officer showing that the proposed abandonment would not affect any known historic resources. A copy of that communication is Exhibit 4.
- Pursuant to the Corps' September 13 letter, counsel for KCSR telephoned Ms. Elizabeth Guynes' office at the number given in the Corps' letter. Ms. Guynes was not available, so counsel spoke with Ken Moseley of that office. Mr. Moseley indicated that a Section 404 permit would be required if the abandonment involved construction outside of the right of way, such as access roads or staging or storage areas for materials or equipment. KCSR does not plan any such construction outside of the right of way. Mr. Moseley indicated that in that case, he did not anticipate any need for a Section 404 permit.

Accordingly, KCSR submits that it has fulfilled the requirement to consult with the Corps' Vicksburg office and has satisfied the recommendations set forth in the Corps' letter. As such, there is no longer a need for a condition to be imposed in the Board's final action on the requested exemption that would require consultation with the Corps and other agencies named in the Corps' letter.

Condition 3 - Consultation with the local Floodplain Administrator. KCSR contacted Mr.

Timothy Howell, who the EA designated as the Floodplain Administrator, by telephone on September 21 and sent him a copy of the Board's EA, along with some background explanation. (See Exhibit 5, a copy of counsel's e-mail to Mr. Howell.) Mr. Howell is an independent contractor for, not an employee of, Winn Parish. He therefore advised that he would have to seek approval of the Winn Parish Police Jury

BAKER & MILLER PLLC

September 26, 2005

Page 3

to perform any work on this matter. He stated that he would contact this office when he obtained such permission. As of this writing, he has not called back.

Condition 4 - Retain sites and structures pending completion of the Section 106 process. As shown in Exhibit 4, Louisiana's Historic Preservation Office is satisfied that there will be no adverse historic site impacts from the proposed abandonment. Accordingly, KCSR submits that proposed Condition 4 need not be imposed in the Board's final action on the requested exemption.

Please acknowledge receipt and filing of an original and two copies of this letter by date-stamping the third copy hereof and returning it to the person making this filing for return to us. If there are any questions about this please contact the undersigned or William A. Mullins, KCSR's representative in this matter, at 202-663-7823 or wmullins@bakerandmiller.com.

Sincerely,

A handwritten signature in black ink, appearing to read "David C. Reeves", with a stylized flourish at the end.

David C. Reeves

cc: Thomas J. Healey, Esq.
Mr. Matt Mallard, U.S. Army Corps
of Engineers, Vicksburg
Mr. Ken Moseley, U.S. Army Corps
of Engineers, Vicksburg, Regulatory Section
Mr. Tim Howell (via e-mail)

BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS

2401 PENNSYLVANIA AVENUE, NW

SUITE 300

WASHINGTON, DC 20037

TELEPHONE: (202) 663-7820

FACSIMILE: (202) 663-7849



DAVID C. REEVES

(202) 663-7824 (Direct Dial)

August 11, 2005

Richard A. Snay
Chief, Spatial Reference System Division
National Oceanic and Atmospheric Administration
National Geodetic Survey
1315 East-West Highway
Silver Spring, MD 20910-3282

RE: *The Kansas City Southern Railway Company-- Abandonment Exemption --
Line In Winn Parish, LA*
STB Docket No. AB-103 (Sub-No. 18X)

Dear Mr. Snay:

This relates to your August 3, 2005 letter addressed to Victoria J. Rutson of the Surface Transportation Board about the referenced rail abandonment proposal. This is to advise that The Kansas City Southern Railway Company ("KCSR") has checked the locations of the 2 geodetic markers identified in your August 3 letter, and finds that the closest one to the track is approximately 1100 feet away. Because the salvage of the line will be conducted within the rail right of way, which does not extend more than 100 feet from the track itself, the proposed rail line abandonment and salvage operations would have no effect on the markers identified in your letter.

Thank you for your response to our environmental consultation request.

Sincerely,

David C. Reeves

cc: Section of Environmental Analysis (SEA)
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001
Thomas J. Healey, Esq.

EXHIBIT 2



DEPARTMENT OF THE ARMY

VICKSBURG DISTRICT, CORPS OF ENGINEERS
4155 CLAY STREET
VICKSBURG, MISSISSIPPI 39183-3435

REPLY TO
ATTENTION OF:

September 13, 2005

Planning, Programs, and
Project Management Division
Environmental and Economic
Analysis Branch

Mr. William A. Mullins
Baker & Miller P.L.L.C.
2401 Pennsylvania Avenue
NW Suite 300
Washington, DC 20037

Dear Mr. Mullins:

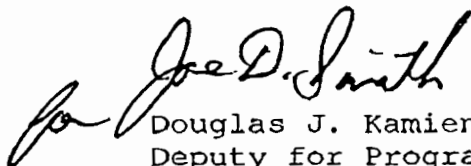
We have received the Kansas City Southern Railroad Company's Abandonment Exemption Environmental Report for the Rail Line in Winnfield, Winn Parrish, Louisiana. The location of this project does not appear to be within any current or proposed U.S. Army Corps of Engineer, Vicksburg District's, project areas.

Upon review of the document, the Vicksburg District concurs with the information provided, with the understanding that the following guidelines are adhered to. The presence of endangered or threatened species or areas designated as a critical habitat is confirmed with the U.S. Fish and Wildlife Service before project construction. Also, we recommend coordination with the Louisiana State Historic Preservation Office to determine if the structures being impacted by the abandonment process are historically significant. Finally, if any waters of the United States are going to be impacted from project construction or changes in flow from bridge embankment removal a Section 404 permit may be required. Please contact Ms. Elizabeth Guynes (telephone (601) 631-5276) regarding Section 404 permit requirements.

-2-

Thank you for the opportunity to comment, and if you have any questions, please contact Mr. Matt Mallard of this office (telephone (601) 631-5960).

Sincerely,

A handwritten signature in cursive script, appearing to read "Joe D. Smith".

Douglas J. Kamien, P.E.
Deputy for Programs and
Project Management

Enclosure

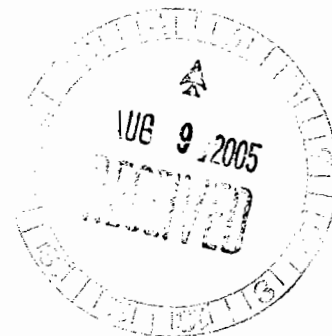
BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS

2401 PENNSYLVANIA AVENUE, NW
SUITE 300
WASHINGTON, DC 20037

TELEPHONE: (202) 663-7820

FACSIMILE: (202) 663-7849



David C. Reeves

Direct Dial: (202) 663-7824
E-Mail: dreeves@bakerandmiller.com

August 9, 2005

Ms. Angela C. Trahan
U.S. Fish & Wildlife Service
Louisiana Field Office
646 Cajundome Blvd., Suite 400
Lafayette, LA 70506Re: STB Docket No. AB-103 (Sub-No. 18X)
The Kansas City Southern Railway Company-- Abandonment Exemption
- Line In Winn Parish, LA

Dear Ms. Trahan:

This letter is to confirm my conversation with you today about the attached letter from your office dated July 19. As we discussed, The Kansas City Southern Railway Company ("KCSR") intends to seek an exemption from the Surface Transportation Board in the captioned case to abandon 3.16 miles of track in Winn Parish, LA. (This proceeding is distinct from another KCSR abandonment proceeding that is occurring simultaneously. That other proceeding involves the proposed abandonment of about 1.12 miles of track in Springhill, Webster Parish, LA. Your office has already responded to that proposal.)

Upon receiving the exemption to abandon the Winn Parish line, KCSR intends to salvage the rail and track materials of the line. As indicated in the Environmental and Historic Report that apparently crossed in the mail with the attached letter, KCSR's salvage activities will be confined to the railroad's right-of-way. The right-of-way does not contain stands of trees such as the woodpecker habitats described in the attached letter. Therefore, the salvage activities will not disturb potential habitats.

As a result of the limited nature of KCSR's salvage activities, it is my understanding from our conversation today that the U.S. Fish & Wildlife Service does not anticipate any adverse effect on the red cockaded woodpecker or other species from KCSR's abandonment and salvage of the line.

Thank you for your time in following up and clarifying this issue.

Sincerely,

David C. Reeves

Enclosure

cc: Victoria J. Ruston, STB SEA

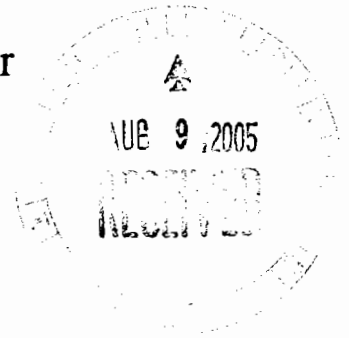


United States Department of the Interior

FISH AND WILDLIFE SERVICE

646 Cajundome Blvd.
Suite 400
Lafayette, Louisiana 70506

July 19, 2005



Mr. William A. Mullins
Baker & Miller, P.L.L.C.
2401 Pennsylvania Avenue N.W., Suite 300
Washington, D.C. 20037

Dear Mr. Mullins:

Please reference your June 20, 2005, letter, on behalf of the Kansas City Southern Railway Company, requesting our review of a proposed railroad track abandonment project near Winnfield, Winn Parish, Louisiana. The U.S. Fish and Wildlife Service (Service) has reviewed the information you provided, and offers the following comments in accordance with the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.).

The proposed project is located within an area that may be inhabited by the red-cockaded woodpecker (RCW, *Picoides borealis*), federally listed as an endangered species. RCWs nest in open, park-like stands of mature (i.e., greater than 60 years of age) pine trees containing little hardwood understory or midstory. RCWs can tolerate small numbers of overstory hardwoods or large midstory hardwoods at low densities found naturally in many southern pine forests, but they are not tolerant of dense hardwood midstories resulting from fire suppression. RCWs excavate roost and nest cavities in large living pines (i.e., 10 inches or greater in diameter at breast height).

The cavity trees and the foraging area within 200 feet of those trees are known as a cluster. Foraging habitat is defined as pine and pine-hardwood (i.e., 50 percent or more of the dominant trees are pines) stands over 30 years of age that are located contiguous to and within one-half mile of the cluster.

If the proposed project area does not contain suitable nesting and/or foraging habitat as defined above, no further consultation with the Service for this project will be necessary. If suitable nesting and/or foraging habitat does exist, however, all suitable nesting habitat within a one-half mile radius from the project boundary should be carefully surveyed by a qualified biologist for the presence of RCW clusters in accordance with the RCW Recovery Plan (2003) survey protocol. We recommend that you provide this office with a copy of the survey report, which should include the following details:

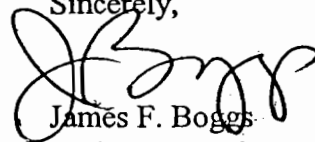
1. survey methodology including dates, qualifications of personnel, size of survey area, and transect density;
2. pine stand characteristics including number of acres of suitable nesting and/or foraging habitat, tree species, basal area and number of pine stems 10 inches or greater per acre, percent cover of pine trees greater than 60 years of age, species of dominant vegetation within each canopy layer, understory conditions and species composition (several representative photographs should be included);
3. number of active and inactive RCW cavity trees observed and the condition of the cavities (e.g., resin flow, shape of cavity, start-holes);
4. presence or absence of RCWs; and
5. topographic quadrangle maps which illustrate areas of adequate RCW nesting and/or foraging habitat, cluster sites, and cavity tree locations relative to proposed construction activities.

If no RCW clusters are found within a one-half mile radius of the project boundary, a request for our concurrence with your "not likely to adversely affect" determination, as well as the basis for your determination, should be included with the survey report. If we concur with that determination, no further consultation with this office will be necessary. If RCW clusters are found in the surveyed areas, however, then further consultation with this office will be required.

The proposed project may also impact wetlands. For a complete jurisdictional wetland delineation of the proposed project, please contact Mr. Ken Moseley (601/631-5289) at the Vicksburg District, U.S. Army Corps of Engineers (Corps). If the Corps determines that the proposed project is within their regulatory jurisdiction, official Service comments will be provided in response to the corresponding Public Notice.

We appreciate the opportunity to provide comments in the planning stages of this proposed activity. If you need further assistance, please contact Angela C. Trahan (337/291-3137) of this office.

Sincerely,



James F. Boggs
Acting Supervisor
Louisiana Field Office

cc: U.S. Army Corps of Engineers, Vicksburg, MS
LDWF, Natural Heritage Program, Baton Rouge, LA

Literature Cited

U.S. Fish and Wildlife Service. 2003. Recovery plan for the red-cockaded woodpecker (*Picoides borealis*): second revision. U.S. Fish and Wildlife Service, Atlanta, Georgia. 296 pp.

BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS

2401 PENNSYLVANIA AVENUE, NW

SUITE 300

WASHINGTON, DC 20037

TELEPHONE: (202) 663-7820

FACSIMILE: (202) 663-7849

WILLIAM A. MULLINS

(202) 663-7823 (Direct Dial)

July 25, 2005

Office of Cultural Development
Louisiana Division of Archaeology
Department of Culture, Recreation and Tourism
P.O. Box 44247
Baton Rouge, LA 70804-4247

Date: 8-25-05

No known archaeological sites or historic properties will be affected by this undertaking. This effect determination could change should new information come to our attention.

Pam Breaux: Pam Breaux
State Historic Preservation Officer

RE: *The Kansas City Southern Railway Company-- Abandonment Exemption --
Line In Winn Parish, LA*
STB Docket No. AB-103 (Sub-No. 18X)

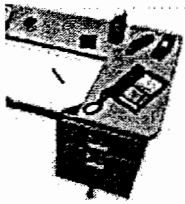
Dear Sir or Madam:

On or about August 15, 2005, The Kansas City Southern Railway Company ("KCSR") expects to file with the Surface Transportation Board ("STB") a Notice of Exemption pursuant to 49 C.F.R. § 1152.50, Subpart F, seeking to abandon 3.16 miles of railroad track located near Winnfield, Winn Parish, Louisiana, running from milepost 144.64 to milepost 147.80 (the "Line"). The Line runs through United States Postal Zip Code 71483. Enclosed is an Environmental and Historic Report describing the proposed action and any expected environmental and historic effects, as well as a map of the affected area.

We are providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the STB's environmental review process, please contact the Section of Environmental Analysis ("SEA"), Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423-0001; TEL: (202) 565-1545 and refer to STB Docket No. AB-103 (Sub-No. 18X).

Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to the SEA (at the address provided in the above paragraph) along with a copy to KCSR's representative (at the address provided in the paragraph below) would be appreciated within three weeks. Your comments will be considered by the STB in evaluating the environmental and/or historic preservation impacts of the contemplated action.

JUL 29 2005



David Reeves/bakermiller
09/21/2005 04:52 PM

To THowell1010@bellsouth.net
cc
bcc William Mullins/bakermiller@bakermiller;
thomas.j.healey@kcsr.com
Subject STB draft environmental assessment on KCS
Winnfield-Carla abandonment

Tim -

It was good to talk with you this afternoon.

As you and I discussed, our firm represents The Kansas City Southern Railway Co. KCS is seeking authority from the Surface Transportation Board to abandon 3.16 miles of rail line between Carla and Winnfield, LA. (A map from the STB's draft environmental assessment is attached below.) The line includes trestles across Sonnett Creek and Port de Luce Creek.

The attached STB draft environmental assessment, at page 4, paragraph 3, requires KCS to consult with you about any effects that abandonment of the line might have on the 100-year floodplains of these two creeks. KCS must then advise the STB in writing of the results of those discussions.

As we have told the STB, KCS will remove the rail, tie plates, etc., from the line, including from the trestles. KCS will confine its salvage activities to the right-of-way, and does not plan to construct any access roads, materials storage or equipment staging areas outside the right-of-way.

KCS expects to sell or donate the right-of-way to a trail use group when the rail is removed. Trail use usually requires that the trestles be left in place, and that is what KCS plans in this case. Also, KCS does not plan to remove or change the berm on which the line now rests. Based on these plans, KCS expects that the abandonment of the line will not adversely affect the 100-year floodplains of the two creeks.

Since you are a contractor for the parish police jury, I understand that you need clearance from them to work on this. I look forward to hearing back from you after you've gotten that clearance.



09-09-05 EA.pdf 09-09-05 EA map.pdf

Best regards,
David C. Reeves
Baker & Miller PLLC
2401 Pennsylvania Ave., N.W.
Suite 300
Washington, D.C. 20037
202-663-7824 (direct dial)
202-663-7820 (receptionist)
202-663-7849 (fax)
703-967-2975 (cell)

The above message may be privileged, confidential and protected from disclosure by attorney/client, work product or other privileges. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error. Then delete it. Thank you.